REMARKS

Claims 1-15 are pending in the above-identified application. By this Amendment, Applicants have amended claims 1, 2, 10, 11, 14, and 15, and have added new claims 16-17.

The amendments to the claims and the new claims are supported by the application as originally filed, and do not introduce new matter. Particularly, support for the amendments to claims 1 and 14, and newly added claim 16 with respect to the price improvement process may be found at page 13, lines 1-9 of the specification, which provides that the system tracks trades of the same security for a predefined period of time, *e.g.*, a 30 second period, and a price improvement is applied which accords an improved price to offsetting trades occurring in the 30 second period of time, and at page 13, line 29-page 14, line 3, which provides that the system applies the price improvement process to all trades that the system determines to be applicable.

Support for the amendments to claims 1, 10, 14, and 15 with regard to exercising trades at the national best bid and offer price or derived price may be found at page 5, lines 1-2, which provides that the system proprietor determines a national best bid and offer price (NBBO) and a derived price, and at page 12, lines 1-4, which proves that the system determines the NBBO or the derived price and executes orders in accordance therewith. Support for the amendment to claim 15 with regard to the method of calculating the derived price may be found at page 9, lines 5-12 and also claim 10 as filed.

Support for newly added claim 17 may be found at page 14, lines 20-24, which provides that the price improvement process takes the average of two trades and applies the average to the trades so that the customer receives a price improvement, for example, of 1/8 point.

Accordingly, entry of the amendments is respectfully requested.

Summary of Telephone Interview

In a telephone interview that took place on February 2, 2005, the Examiner and the Applicant's undersigned representative discussed the price improvement process and he derived price aspects of the invention, and also discussed amending independent claims 1, 14, and 15 to clarify these aspects of the invention in the claims. The Examiner agreed that these aspects of the invention are not disclosed in the art of record insofar as the Examiner indicated that the proposed amendments to the claims would require an additional search.

Claim Rejections – 35 U.S.C. § 101

The Examiner rejects claim 15 under 35 U.S.C. § 101 asserting that claim 15 "is not within the technological arts." The Examiner suggests amending claim 15 to recite a computer in the preamble and in the body of the claim. The Applicants have herewith amended claim 15 as suggested by the Examiner such that the preamble of claim 15 currently recites "A computer implemented data processing method" and the body of claim 15 recites "storing information pertaining to an investor's position and an offering inventory in a database associated with at least one computing device." Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claim Rejections – 35 U.S.C. § 112

The Examiner rejects claim 14 under 35 U.S.C. § 112 insofar as the Examiner is not able to ascertain the meaning of "Liquid Agency". The Examiner requests that the Applicant point out the definition of the term in the specification and to clarify the claim language. The term Liquid Agency is used throughout the specification. For example, at page 4, lines 26-29 it is disclosed that "the present invention provides a computer implemented system for automated trading of fixed income financial instruments, and in particular, US Treasury, Liquid Agency, and Zero Coupon STRIP instruments." The term "Liquid Agency" is used in combination with the term "financial instruments", as recited in claim 14, to denote liquid type agency financial instruments or securities issued or guaranteed by a U.S. Government agency or by a government-sponsored entity, such as the Government National Mortgage Association ("Ginnie Mae"), the Federal Home Loan Mortgage Corporation ("Freddie Mac") and Fannie Mae. Liquid type agency financial instruments are commonly referred to as "agency securities".

The Applicants respectfully point out that the specification does not need to disclose that which is well know in the art and preferably omits that which is well known and readily available to the public. *See In re Buchner*, 929 F.2d 660, 661 (Fed. Cir. 1991). The Applicants enclose herewith an excerpt of the 83rd Annual Report (1996) pages 308-310, which indicate that the Federal Reserve has been dealing with federal agency securities as early as 1918, and a definition of agency securities provided by TheStreet.com, which

comports with the above definition and further indicates that at the end of 1999 there were about $1.6 trillion of agency securities outstanding. Both of these enclosures indicate that agency securities were well known in the art at the filing of the present application and thus do not need to be defined in the specification. Similarly, the Applicants do not need to amend the claim language in this respect since the term is not used inconsistent with its ordinary meaning. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

Claims 1-15 are pending in the above-identified application. In the Office Action dated November 4, 2004, the Examiner rejects claims 1-14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,905,974 (Fraser, *et al.*) in view of U.S. Patent No. 6,505,174 (Keiser *et al.*), and claim 15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,905,974 (Fraser, *et al.*) in view of U.S. Patent No. 5,987,432 (Zusman *et al.*), and further in view of U.S. Patent No. 6,505,174 (Keiser *et al.*). The Applicant respectfully traverses the rejections, and asserts that the claims pending in the present application, *i.e.*, claims 1-15, are patentable over Fraser, Keiser, and Zusman for at least the reasons stated below.

The present invention is drawn toward automated trading of financial instruments. Particularly, independent claims 1 and 14, as amended, and the claims dependent thereon, including newly added claim 16, feature, among other things, a computer implemented system proprietor that determines if a trade executed by the system is an offsetting trade and applies a price improvement process to at least one offsetting trade, which process improves a price of the offsetting trade for at least one party to the offsetting trade. An offsetting trade is at least one of a plurality of trades of a same financial instrument, which are executed within a predefined period of time from each other. Neither Fraser, Keiser, nor Zusman, either alone or in combination, disclose or otherwise suggest financial instrument trading systems or methods that apply a price improvement to offsetting trades as claimed.

Independent claim 15 and claim 10 feature computer systems and methods that determine or compute a derived price, *e.g.*, in the event a national best bid and offer price is not available. The derived price is calculated by determining a spread between a last transaction price and a desired transaction benchmark for the financial instrument,

determining a current existing price of the desired benchmark, and adding the spread to the current existing price of the benchmark. Neither Fraser, Keiser, nor Zusman, either alone or in combination, disclose or otherwise suggest financial instrument trading systems or methods that calculate a derived price as claimed.

Newly added claim 17, which depends on claim 1, further recites that the price improvement process includes computing an average of the execution prices of a plurality of offsetting trades and applying the average of the execution prices to at least one of the offsetting trades, which is further not disclosed or suggested by Fraser, Keiser, or Zusman.

The other dependent claims are patentable for additional reasons. While deemed unnecessary to argue these additional reasons at this time, given the arguments presented above, the Applicants reserve the right to present such arguments should it become necessary or desirable to do so. Moreover, the Applicants repeat and renew their arguments presented in the previous responses against the Examiner's assertions with regard to the disclosure of the art of record.

For the above reasons, the Applicant submits that their invention as claimed is patentable over the references cited by the Examiner. Accordingly, reconsideration and allowance of pending claims 1-15 and the newly added claims 16-17 is respectfully solicited. The Applicants thank the Examiner for her suggestions and further invite the Examiner to contact the Applicant's undersigned representative to expedite prosecution.

Respectfully submitted,

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I hereby certify that this paper and any accompanying papers referenced herein are being transmitted by Facsimile to the USPTO 703-872-9306 or deposited this date with the U.S. Postal Service as First Class Mail with sufficient postage addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Antonio Papageorgiou — February 4, 2005
Date